



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Carolina Parachute Corporation

File: B-226552.2

Date: July 16, 1987

DIGEST

1. Protest which was initially untimely filed with the contracting agency will not be considered by the General Accounting Office.
2. Protest is denied where evidence before our Office shows that time-date stamp in Army Communication Center is set for "Zulu" time (Greenwich Meridian time) and, therefore, telex modification of bid was received prior to bid opening.

DECISION

Carolina Parachute Corporation (CPC) protests the award of a contract for cargo extraction parachutes to Mills Manufacturing Corporation under invitation for bids No. DAAK01-87-B-A093 issued by the United States Army. CPC contends that the Army improperly accepted a late telegraphic bid modification by Mills, which reduced Mills' bid price below that of CPC.

We dismiss the protest in part and deny it in part.

Bid opening took place at 2 p.m. on February 18, 1987. At bid opening, CPC's bid was the lowest received. CPC states that on February 19 it learned from the Army that Mills had submitted a late bid modification which displaced CPC's bid, and which the Army intended to accept. CPC protested to the Army by letter dated March 3, which was received by the Army on March 9. In this letter, CPC indicated that it understood that the Army planned to award the contract to Mills because Mills' bid modification telex was in the government installation prior to bid opening, even though it had not been received in the bid opening room. CPC protested that it was highly unusual for a firm to reduce its price as much (approximately 30 percent) as was done by Mills, and requested a copy of the Mills' telex.

By letter dated March 11, the Army provided CPC with a copy of Mills' telex, and denied CPC's protest. The Army stated that bid opening was scheduled for 2 p.m. on February 18, and that Mills' telex was time-date stamped showing receipt

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by the Army Communications Center at 16:43 "Zulu Time" (Zulu time is the designation for Greenwich Meridian time that the Army uses to record the time of receipt of all incoming and outgoing electronic messages), which corresponds to 10:43 a.m., local time. The telex was picked up at the Communications Center and signed for by procurement personnel at 12:30 p.m., local time. The Army concluded that Mills' telex arrived before bid opening and that the late delivery to the bid opening room was solely the result of government mishandling and, therefore, the late modification would be considered pursuant to the Federal Acquisition Regulation, 48 C.F.R. § 14.304-1(a)(2) (1986).

CPC protested to our Office by letter dated March 13, which was filed in our Office on March 19. In this letter, CPC stated that it had not yet received a response from the Army, and raised the identical protest basis as it had in its March 3 letter to the Army. Subsequently, by letter dated April 28, filed in our Office on May 1, CPC first raised the issue of the actual time of receipt of Mills' telex, arguing that since the time-date stamp on the telex did not include a "Z" to designate Zulu time, this cast doubt as to when and where the telex was actually received, and whether it was in the Army's possession prior to bid opening.

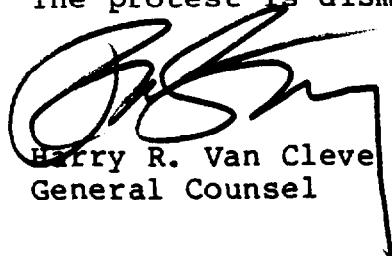
CPC's initial protest to the Army was untimely because it was not filed until March 9, more than 10 working days after February 19, the date on which CPC acknowledges that it received notice of the information which provided the basis for its protest. 4 C.F.R. § 21.2(a)(2). Under our Bid Protest Regulations, where a protest is initially filed with the contracting activity, it must be timely filed there in order for our Office to consider a subsequent protest. 4 C.F.R. § 21.2(a)(3).

With respect to CPC's later-raised allegation concerning the time-date stamp, CPC states that it was advised by personnel at the Communications Center that incoming commercial telexes which come through the Communications Center are time-date stamped in Zulu time. Since the stamp on the Mills' telex lacks a "Z," CPC argues that either the time indicated does not refer to Zulu time, resulting in the modification being late, or the telex was not received by the Army Communications Center.

The Army advises that the Mills' telex was received by the Communications Center, and that all such incoming correspondence processed there is routinely given a time-date stamp

designating Zulu time. The time-date stamp is set for Zulu time and does not include a "Z" on any stampings. Thus, this basis of protest is denied as the record shows that the Mills' telex was in the Army Communications Center at 14:43 Zulu time, or 10:43 a.m., before bid opening.

The protest is dismissed in part and denied in part.



Harry R. Van Cleve
General Counsel